

## Chapter 155: Zoning

# Article XXV: General Regulations

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## 155-12 Public utility corporations.

This chapter shall not apply to any existing or proposed building or extension thereof used or to be used by public utility corporations if, upon petition of the corporation, the Public Utility Commission shall after a public hearing decide that the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public.

### § 155-12 Reduction of lot area.

No lot area shall be so reduced that the area of the lot or the dimensions of the open spaces shall be smaller than herein prescribed, except as provided under § 155-127 hereof.

### § 155-12 Averaging of lot sizes.

[Amended 8-14-1976 by Ord. No. 1772; 5-18-1977 by Ord. No. 1794]

- A. Subject to the limitations set forth in this section, the area of individual lots in a subdivision or land development may be varied from the minimum lot area requirements of this chapter by order of the Board of Commissioners if it finds that the relief requested is in the interest of effective land planning, because it will provide one or more of the following benefits:
  - (1) Preservation and protection of natural land features, including trees and other attractive amenities, open space or floodplain areas, steep slopes and other environmentally fragile areas (beyond the limitations imposed by other regulations).
  - (2) Dedication of land for parkland or other recreational purposes or preservation and protection of historic sites or facilities.
- B. Relief under this section will not be granted unless the Board of Commissioners makes a finding as required by Subsection A above, as to which the applicant shall have the burden of proof. Relief will not be granted for the convenience of the applicant or his economic benefit. Relief shall be denied if the Board of Commissioners finds that the proposed averaging will have an adverse effect upon the public health, safety or welfare, and the applicant shall have the burden of proving that no such adverse effect will occur.
- C. Relief under this section will be granted only when a tract of land to be subdivided or developed contains at least five acres and such tract is located in an R 1, R A or R AA Residence District, and, further, the area of the individual lots may be varied from the minimum area required for such districts, provided that the area of no lot may be reduced to an area less than 27,000 square feet in R 1 Residence Districts, 39,000 square feet in R A Residence Districts or 75,000 square feet in R AA Residence Districts and that the average of the areas of the individual lots within the subdivision shall not be less than the minimum required for the district and that no land of such size as to be capable of further subdivision under the applicable district regulations shall be included in determining the average lot area, unless the possibility of such further subdivision is eliminated either by a deed restriction or agreement in form acceptable to the Township Solicitor and duly recorded in the office of the Recorder of Deeds of Montgomery County, or by transfer of development rights to the Township, or by dedication for park purposes. In the case of any lot approved under this provision, all requirements of the district regulations shall apply, other than lot area per family.
- ~~D.~~ The subdivision or land development must be carried out in strict accordance with the plan as approved by the Board of Commissioners.

## § 155-12 **Rear lot development.**

[Amended 5-15-1985 by Ord. No. 2071; 2-18-1987 by Ord. No. 3034]

In any residential subdivision made under the provisions of Chapter **135** of the Code of the Township of Lower Merion or with respect to any presently existing residentially zoned lot, the Board of Commissioners may authorize the creation of narrow lots as a conditional use subject to the following regulations:

- A. The minimum lot width of the lot at the building line shall be the minimum lot width required at the street line for lots in the zoning district in which the lot is located. Minimum lot width shall be measured parallel to the street at the point of the proposed building closest to the street and shall extend the full depth of the building, plus an additional 25 feet.
- B. An applicant shall not be permitted to increase the number of conforming lots permitted in a subdivision through the use of narrow lots.

[Amended 9-18-1990 by Ord. No. 3206]

- C. Every narrow lot shall include at least 20 continuous feet along the street line, and such connection to the street shall extend at no less than that width to the point at which the narrow lot reaches the lot width required by the zoning district in which the lot is located. The area between the street line and the point at which the narrow line reaches the required lot width shall be capable of providing driveway and utility access to the lot (i.e., shall not be blocked by natural barriers, such as lakes, or slopes in excess of 25%) and shall not be excessively irregular in shape.
- D. In calculating the lot area of a rear lot, the area between the street line and a line drawn radial thereto at the point where the lot attains the minimum lot width required in its zoning district shall not be included in applying the requirements of this chapter, except those requirements relating to impervious surfaces.

[Amended 6-20-2001 by Ord. No. 3614]

- E. The Board of Commissioners shall designate which of the required yards shall be the front yard for rear lots.
- F. The Board of Commissioners shall find that the creation of a narrow lot or narrow lots shall be in accordance with the land use goals and requirements contained in this chapter and in Chapter **135** of the Code of the Township of Lower Merion.
- G. Any rear lot approved by conditional use shall connect to the adjacent sanitary sewer, when and if it is installed, even though the building may be more than 200 feet away.

[Added 2-16-1994 by Ord. No. 3348]

## § 155-12 **Corner vision obstruction.**

On any corner lot, no wall, fence or other structure shall be erected or altered and no hedge, tree, shrub or other growth shall be maintained and no vehicles shall be parked or other obstacle be placed so as to cause danger to traffic on a street by obscuring the view.

## § 155-13 **Regulation of fences and walls.**

[Amended 12-18-1985 by Ord. No. 2093; 10-17-1990 by Ord. No. 3209; 2-17-1993 by Ord. No. 3309; 9-15-1999 by Ord. No. 3538]

- A. No fence or wall, except a retaining wall or a wall of a building permitted under the terms of this chapter, over eight feet in height shall be erected within any of the required side or rear yard setbacks nor over six feet in height within the required front yard setback for the principal building in the district in which the property is located.
  - (1) When a fence or wall exceeding four feet in height is erected within the required front yard setback, measured from the street line, the entire fence or wall shall contain openings therein equal to 75% or more of the area of the fence or wall.

- (a) An existing fence or wall exceeding four feet in height, and less than 75% open, in the required front yard setback may be replaced if the applicant can demonstrate that the fence conformed to the Zoning Code when it was installed.
- (2) When a fence or wall exceeding six feet in height is erected within any required side or rear yard setback, the entire fence or wall shall contain openings therein equal to 75% or more of the area of the fence or wall, unless either of the following conditions exist:  
[Amended 2-15-2006 by Ord. No. 3770]
  - (a) Where a property abuts a railroad, the portion of the fence or wall abutting the railroad is not required to be open.
  - (b) Where a residential property abuts a commercial property, any portion of the fence above six feet must be at least 50% open.
- B. When the Board of Commissioners finds that a significant need is met by the erection of the fence, the Board of Commissioners may approve a higher solid fence within the required front, side and rear yard setback when such a fence is requested in conjunction with the approval of a development plan.
- C. All fences shall be erected with the finished side of the fence facing adjacent properties. The finished side shall be considered the side without the structural supporting members.
- D. All fences or walls erected within the front yard setback shall provide an operable gate with a minimum width of 36 inches to provide access to the area between any fence or wall and the cartway of the abutting street, and the property owner is responsible for maintaining this area. There shall be a minimum of one operable gate for each street frontage and at least one operable gate for every 500 feet of fencing along a street.

### **§ 155-13 Air-conditioning equipment.**

[Amended 6-19-2002 by Ord. No. 3647]

Air-conditioning equipment (excluding self-contained window air-conditioning units) shall not be placed in the required front, side or rear yards, except that such equipment may be placed in the required front or rear yard when authorized as a special exception and in the required side yard as permitted by § 155-135A, Projections.

### **§ 155-13 Display of temporary signs.**

Temporary signs of mechanics, painters, artisans and contractors must be displayed visibly where a building is being erected, altered or otherwise improved. Such signs shall comply with the requirements of § 155-93.1J(1) hereof.

### **§ 155-13 Conversion of buildings.**

[Amended 3-18-1981 by Ord. No. 1949; 2-16-1994 by Ord. No. 3351; 9-20-1995 by Ord. No. 3401; 9-18-1996 by Ord. No. 3427]

- A. The Zoning Hearing Board may authorize as a special exception the conversion of a building used as a single-family dwelling into a two-family dwelling or an apartment house in R AA, R A, R 1, R 2, R 3, R 4, R 5 and R 6 Residence Districts, subject to the following requirements:  
[Amended 1-16-2013 by Ord. No. 3993]
  - (1) The minimum lot area requirement for the district in which the designated lot is located shall be provided for each dwelling unit in the proposed converted dwelling. No future subdivision of the property may reduce the lot area below the minimum requirement. A covenant shall be recorded to document this restriction.
  - (2) The conversion must occur on a lot that complies with the area and width regulations for the district in which the lot is located.

- (3) There shall be no external expansion of the building except as may be necessary for reasons of safety or to comply with the building code provisions of Chapter **143** and the fire code provisions of Chapter **78**. Exterior stairways shall, where practicable, be located to the rear of the building.
- (4) The Zoning Hearing Board shall specify the maximum number of families and dwelling units permitted to occupy such building and may prescribe such further conditions and restrictions with respect to the conversion and use of such building and to the use of the lot as the Zoning Hearing Board may consider appropriate.
- (5) If the building is used and occupied as an apartment house, either one of the units must be and remain occupied as the primary residence of the owner, or the owners must designate an agent of the property owner authorized to accept service on the owner's behalf.
- (6) The property shall comply after conversion with the building area and impervious surface requirements for a single-family dwelling in the district in which the property is located. To the degree the lot is nonconforming to the building area or impervious surface requirements, the existing and new improvements required to complete the building conversion may not result in an increase in building area or impervious surface beyond the increases permitted in Article **XXV** and **XXVIA**.
- (7) A planted buffer 20 feet in depth that meets the buffer standards in § **155-114D** shall be required unless the Zoning Hearing Board makes a specific finding that the use of adjacent properties will be sufficiently protected from the impact of the converted building by a lesser buffer, or by no buffer at all.
- (8) If the net lot area exceeds five acres, the lot shall comply with the Open Space Preservation District provisions in Article **XXVI**.

- B.** <sup>[1]</sup> The Board of Commissioners may authorize as a conditional use the conversion of a building listed as a Class I or Class II Historic Resource being lawfully used for a religious, club or lodge use into a two-family dwelling or an apartment house, or an accessory building on that same lot, subject to compliance with § **155-151B(1)(g)**.  
 [Added 1-16-2013 by Ord. No. 3993; amended 6-19-2013 by Ord. No. 4001]

<sup>[1]</sup> *Editor's Note: Former Subsection B, pertaining to certain conversions, was repealed 6-17-1998 by Ord. No. 3491.*

- C.** Adult day care. The Board of Commissioners recognizes that the elderly and certain disabled persons are in need of day-care facilities because they cannot function well without assistance, and their caregivers cannot provide this assistance during daytime hours. Such facilities can be conveniently located in a residential setting, provided that regulations are adhered to which will preserve the residential character of the neighborhood, will assure that proper care is given in a setting which does not become overcrowded and will protect the privacy of abutting property owners from the potentially intrusive effect of an abutting institutional use. Considering these purposes, the Board of Commissioners may authorize as a conditional use the conversion of an existing dwelling in an R 7 Zoning District into an adult day-care facility, subject to the following requirements and the provisions set forth in § **155-141.2** hereof:

- (1) The adult day-care facility shall serve participants who are 60 years of age or older or who are 18 years of age or older and have poststroke dementia or Parkinsonism or a dementia disease such as Alzheimer's or other organic brain syndrome.
- (2) The Board of Commissioners specifically finds that the provisions of § **155-141.2** hereof have been met.
- (3) Area and width regulation. The area and width requirements under § **155-37A** must be met for each adult day-care facility.
- (4) A buffer area, as defined in § **155-4** of this chapter, shall be provided along the full length of all side and rear lot lines. The buffer area shall be not less than 20 feet in width. The Board of Commissioners may authorize a reduction in the buffer if the adjacent properties are also owned by the applicant. The applicant must also

comply with the landscape design standards, site maintenance and guaranty provisions of Chapter 101, Natural Features Conservation, §§ 101-10 and 101-11.

- (5) Vehicular access must be gained directly from and to a primary, secondary or tertiary street as shown on the Official Highway Map, or from a minor street if the point of access is within 200 feet of a primary, secondary or tertiary street and the applicant establishes that the major portion of the traffic created by the use will access the property from that direction.
- (6) A minimum five-hundred-foot separation distance shall be provided between lots used for another adult day-care facility, a community residential program or an alternative housing option for the elderly.
- (7) A maximum of 45 participants shall be permitted in an adult day-care facility. This limitation shall not include staff.
- (8) There shall be a minimum of 50 square feet of floor space for each participant.
- (9) Vehicles with a capacity exceeding 24 occupants shall not be permitted to drop off or pick up participants.
- (10) Outdoor lighting shall be restricted to prohibit glare onto surrounding properties.
- (11) The applicant must demonstrate that adequate parking for participants and staff and adequate areas for all delivery and pickup activities can be provided. The following are the minimum requirements:
  - (a) One parking space for each employee working at the facility.
  - (b) One parking space for each participant who will drive to the facility.
  - (c) One visitor parking space for every 15 participants.
  - (d) Adequate driveway and stacking space to accommodate one vehicle for every five adult participants measured from the location where participants are dropped off. If the applicant can demonstrate that the arrival times will vary, the stacking may be reduced to one vehicle for every 10 participants.
  - (e) No parking shall be permitted in the front yard setback.
  - (f) A handicap accessible dropoff/pickup area shall be provided near the entrance to the building.
- (12) Parking, loading, unloading, ingress and egress may be provided on the adjacent property, subject to the following conditions.
  - (a) The adjacent property must be owned by the applicant.
  - (b) The adjacent property must provide adequate ingress and egress for the proposed use.
  - (c) The required driveways and parking on the adjacent lot are available during the hours of operation of the facility.
  - (d) The required areas are within 200 feet of the building used for adult day care.
  - (e) The applicant must enter into an agreement with the Township that if the adjacent property is no longer available for parking or ingress and egress, the applicant must install the required improvements or cease the use of the adult day-care facility.
- (13) If the facility is to accommodate more than 20 persons or if the Board of Commissioners determines it to be necessary to its decision, the applicant shall perform a traffic study satisfactory to the Township and provide improvements needed to ensure safe ingress and egress.
- (14)

The conditional use approval granted for this use shall expire six months after the building ceases to be occupied as an adult day-care facility as herein provided, and the dwelling shall then revert to a use permitted in the district in which it is located.

- (15) Participants shall not be permitted to stay overnight.
  - (16) The facility must be licensed with the Commonwealth of Pennsylvania Department of Aging as an older daily living center prior to the issuance of an occupancy permit.
- D. A building may, upon the grant of a conditional use by the Board of Commissioners pursuant to § 155-141.2, be converted to a mandated emergency services use in any commercial zoning district subject to the following provisions:
- (1) There shall be no expansion to the existing building.
  - (2) There shall be no increase to the existing impervious surface on the property.
  - (3) The organization or agency must maintain tax-exempt status under Section 501 (C)(3) or (4) of the Internal Revenue Code, as amended.
  - (4) A minimum two-mile separation distance shall be provided between like emergency mandated service facilities.
  - (5) Outdoor lighting must be restricted to eliminate glare onto surrounding properties.
  - (6) One parking space must be provided for each 200 square feet of office area. Additional parking and maneuvering space for volunteers and emergency equipment must be provided based upon the number or size of the vehicles anticipated. The required parking must be provided on the existing impervious surface.
  - (7) Land-based sirens shall not be operated.
  - (8) Signage shall be limited to that otherwise permitted in the zoning district in which the emergency facility is located.
  - (9) All emergency vehicles, except those immediately available for use, shall be stored at all times in a fully enclosed building.
  - (10) No motor repair or body work may be performed at the site. Routine maintenance may be performed, but only within a fully enclosed building.
  - (11) Existing pervious surface between the existing building and the side and rear property line shall be planted to provide a buffer when abutting a residential use or district.
  - (12) The applicant shall demonstrate that any increase in traffic and any use of abutting streets by emergency vehicles shall not adversely impact local traffic conditions or represent a danger to the community.

### **§ 155-13 Projections in front yards.**

[Amended 10-18-2000 by Ord. No. 3584; 12-21-2005 by Ord. No. 3762; 9-18-2013 by Ord. No. 4005; 11-19-2014 by Ord. No. 4035]

- A. Cornices, eaves, gutters, chimneys or windows may project up to 18 inches into the required setback. Steps and canopies over entrances may project into the required front yard up to four feet. The length along the supporting wall of a projecting canopy over an entrance may not exceed eight feet, or a maximum of two feet beyond the door opening, whichever is less. The canopy may also include up to two supporting columns.
- B. On detached single-family dwellings, single-family semi-detached dwellings, two-family detached and semi-detached dwellings, townhouses and apartment houses in the R5, R6, R6A and R7 Zoning Districts, an open, roofed porch may project into the required front yard setback, subject to compliance with all of the following requirements:

[Amended 1-21-2015 by Ord. No. 4046]

- (1) The porch is permitted to project up to 10 feet into the required front yard setback.
- (2) The porch may not be enclosed nor living space or balconies erected above. Porch enclosures shall be limited to traditional porch elements, such as railings, required by the Building Code.
- (3) Steps up to six feet wide from the porch may project up to an additional four feet into the front yard setback.
- (4) Space beneath the porch may not be occupied.
- (5) The porch may occupy no less than 50% of the width of the street face of the building.
- (6) The additional impervious surface associated with the porch and steps need not be included in the calculations of the total allowable impervious surface, provided 100% of the direct volume of stormwater generated from the additional impervious surface will be recharged for a one-hundred-year storm event.
- (7) The minimum setback from the right-of-way for any porch and steps authorized under this section shall be five feet.

### **§ 155-13 Projections and accessory buildings in side yards.**

#### **A. Projections.**

[Amended 10-18-2000 by Ord. No. 3584; 6-19-2002 by Ord. No. 3647]

- (1) No building and no part of a building shall be erected within or project into the side yard, except cornices, eaves, gutters or chimneys, any of which may project up to 18 inches.
- (2) Steps and canopies over entrances may project into the side yard up to four feet. The length along the supporting wall of a projecting canopy over an entrance may not exceed eight feet, or a maximum of two feet beyond the door opening, whichever is less. The canopy may also include up to two supporting columns.

[Amended 12-21-2005 by Ord. No. 3762]

- (3) Heating, ventilating and air-conditioning (HVAC) equipment may be erected in a side yard provided the equipment complies with all of the following provisions:
  - (a) No part of the equipment is permitted more than four feet from the building.
  - (b) No part of the equipment is permitted less than four feet from the lot line.
  - (c) The noise level from the equipment does not exceed the lower of 60 decibels, or the noise level generated by the best available HVAC technology, measured at the property line. At the time of permit application, the applicant must provide the sound specifications for the unit to be installed to demonstrate compliance with the noise level limitations. If required, this must be accomplished through the use of sound mediation measures acceptable to the Director of Building and Planning.

#### **B. Accessory buildings and structures.** An accessory building or structure may be erected in the side yard not closer than 10 feet to the side lot line in R AA, R A, R 1 and R 2 Residence Districts and five feet in other residence districts, provided that such building is entirely separated from the principal building by a minimum distance of 10 feet, is located farther back from the front street line than the rearmost portion of the principal building, is 15 feet or less in height, and has a building area no larger than 600 square feet.

[Amended 3-20-1991 by Ord. No. 3230; 11-15-1995 by Ord. No. 3405; 5-19-2004 by Ord. No. 3711]

#### **C. Townhouses in the R6A and R7 Zoning Districts.** An open, roofed porch may project into the required side yard setback, subject to compliance with all of the following requirements:

[Added 11-19-2014 by Ord. No. 4035; amended 1-21-2015 by Ord. No. 4046]

- (1) The porch is permitted to project up to five feet into the required side yard setback.
- (2) The porch shall not extend into the required buffer.
- (3) A porch erected under this section may not be enclosed nor living space or balconies erected above. Porch enclosures shall be limited to traditional porch elements, such as railings, required by the Building Code.
- (4) Space beneath the porch may not be occupied.
- (5) The porch shall extend no more than 15 feet along the side of the dwelling as measured from the front face of the dwelling.
- (6) Steps from the porch shall not extend into the side yard setback further than the porch permitted under this section.
- (7) Side porches and front porches pursuant to § 155-134B may connect to form a continuous porch.
- (8) The additional impervious surface associated with the porch need not be included in the calculations of the total allowable impervious surface, provided 100% of the direct volume of stormwater generated from the additional impervious surface will be recharged for a one-hundred-year storm event.

### **§ 155-13 Projections and accessory buildings in rear yards.**

- A. Projections. No building and no part of a building shall be erected within or project into the rear yard, except cornices, eaves, gutters or chimneys projecting not more than 18 inches, steps and canopies over entrances projecting not more than four feet. The length along the supporting wall of a projecting canopy over an entrance may not exceed eight feet, or a maximum of two feet beyond the door opening, whichever is less. The canopy may also include up to two supporting columns. In the case of a lot held in single and separate ownership at the effective date of this chapter in which the distance from the rear line of the lot to the line fixed by the front yard requirement as herein provided is less than 75 feet, a portion of the principal building not wider than 20% of the width of the lot may project not more than 10 feet into the rear yard. Where the principal building is an attached dwelling, the following projections shall also be permitted:

[Amended 10-18-2000 by Ord. No. 3584; 6-20-2001 by Ord. No. 3613; 12-21-2005 by Ord. No. 3762]

- (1) An open deck may be erected up to 10 feet into the required rear yard setback.
- (2) An open deck may be erected in the rear yard setback up to the side property line at which a common party wall exists.
- (3) If there is a common rear driveway/easement or alley serving the attached dwellings, the deck must be set back a minimum of five feet from the edge of the driveway/easement or alley.
- (4) Decks installed under this provision shall not project into a required buffer area.
- (5) Where the deck is raised above a space used for parking, the deck shall be constructed to provide a minimum clearance for a vehicle six feet eight inches high to enter such space, and may not otherwise interfere with that use.

- B. Accessory buildings and structures. An accessory building or structure may be erected in the rear yard not closer than 10 feet to the rear lot line in R AA, R A, R 1 and R 2 Residence Districts and five feet in other residence districts, provided that such building is entirely separated from the principal building by a minimum distance of 10 feet, is located farther back from the front street line than the rearmost portion of the principal building, is 15 feet or less in height, and has a building area no larger than 600 square feet.

[Amended 3-20-1991 by Ord. No. 3230; 11-15-1995 by Ord. No. 3405; 5-19-2004 by Ord. No. 3711]

### **§ 155-136. One- and two-family detached dwellings on corner lots.**

[Added 7-21-2010 by Ord. No. 3920]

Where the dimensions of a corner lot are such that when front yard, side yard, and rear yard setbacks for the district are imposed, the resulting area ("net area") on which a building can be located is less than the net area would be on a conforming intermediate (or non-corner) lot in the same district meeting minimum area and width standards, the following requirements shall apply:

- A. Side yards. There shall be two side yards, one on each side of the principal building not fronting on a street. Together the side yards shall meet the minimum and aggregate width requirements for the zoning district in which the property is located.
- B. Rear yards. A corner lot with four property lines will have two front yards, two side yards and no rear yard. A corner lot with more than four property lines will have one or more rear yards along the interior property line(s) between the two required side yards. The depth of the rear yard(s) shall comply with the provisions of the zoning district in which the property is located.

### **§ 155-13 Building height requirements; exceptions.**

[Amended 9-20-1989 by Ord. No. 3162; 10-17-1990 by Ord. No. 3208; 5-19-2004 by Ord. No. 3710]

- A. Residence districts.  
[Amended 12-21-2005 by Ord. No. 3762]
  - (1) One- and two-family dwellings. Where the maximum permitted height of a building is 35 feet, that height may be exceeded by up to 10 feet, provided all of the following conditions are met:
    - (a) The roof slope must exceed eight units vertical for each 12 units horizontal.
    - (b) The depth of the front, side and rear yard setbacks for that limited portion of the building area directly over which the roof creates a building height of between 35 feet and 40 feet shall be increased one foot for every one foot, or portion thereof, by which the building height exceeds 35 feet, up to 40 feet.
    - (c) The depth of the front, side and rear yard setbacks for that limited portion of the building area directly over which the roof creates a building height of between 40 feet and 45 feet shall be increased four feet for every one foot, or portion thereof, by which the building height exceeds 40 feet.
  - (2) Other buildings. The depth of the front, side and rear yard setbacks shall be increased one foot for each foot or portion thereof by which the building exceeds 35 feet in height.
- B. Commercial and manufacturing and industrial districts.
  - (1) Front yard. The depth of the front yard shall be increased beyond the required front yard 1/2 foot for each foot or portion thereof by which the building exceeds 35 feet in height, beginning with the story in which the height of 35 feet is exceeded.
  - (2) Rear yard. The depth of the rear yard shall be increased 1/2 foot for each foot or portion thereof by which the building exceeds 35 feet in height.
  - (3) Side yard. The width of the side yard, where required, shall be increased 1/2 foot for each foot or portion thereof by which the building exceeds 35 feet in height.
  - (4) Distance requirements. The distance between two or more buildings on the same lot shall be a minimum of 35 feet or no less than the height of the taller building, whichever is greater.
- C. Reduction of building area and impervious surface coverage for buildings, other than one- and two-family dwellings, in excess of 35 feet. The maximum building area and impervious surface coverage shall be decreased 1/4 of 1% of the lot area for each foot or portion thereof by which the building exceeds 35 feet in height.

[Amended 12-21-2005 by Ord. No. 3762]

### § 155-13 **Hard-surfaced sporting or other physical recreation areas.**

[Amended 12-19-1979 by Ord. No. 1884; 8-3-2005 by Ord. No. 3751]

- A. No tennis court or other hard-surfaced area designed or intended to be used for sporting or other physical recreation activities shall be constructed in the required front, rear and side yards in residence districts, commercial districts or manufacturing and industrial districts.
- B. No artificial turf playing field shall be constructed in any required yard in residence districts, commercial districts or manufacturing and industrial districts, except an artificial turf field may be constructed in that portion of the front yard setback occupied by an existing playing field as of the effective date of this section.

[Amended 3-15-2006 by Ord. No. 3773]

- C. Artificial turf playing fields shall not be considered as impervious surface if the artificial field is designed to be permeable and the applicant can demonstrate that the stormwater runoff coefficient of the artificial playing surface is less than or equal to grass and the drainage system is maintained to continue this runoff coefficient in the opinion of the Township Engineer.

### § 155-13 **(Reserved)** <sup>[1]</sup>

- [1] *Editor's Note: Former § 155-139, Residential outdoor lighting, was repealed 9-19-2012 by Ord. No. 3983. For current provisions on exterior lighting, see Ch. 105, Noise and Exterior Lighting.*

### § 155-14 **Prohibited uses.**

[Amended 6-16-1993 by Ord. No. 3327]

No building may be erected, altered or used and no lot or premises may be used for any trade, processing or business which is noxious, offensive or a public nuisance by reason of odor, dust, smoke, gas, vibration, illumination, noise or the emission of electronic or magnetic waves, or which constitutes a public hazard, whether by fire, explosion or otherwise. <sup>[1]</sup>

- [1] *Editor's Note: Original Section 2516, Attached Dwellings (Row Houses) Prohibited, which immediately followed this section, was deleted and repealed 5-14-1976 by Ord. No. 1772.*

### § 155-14 **Certificates of occupancy.** <sup>[1]</sup>

- A. New buildings. No building hereafter erected shall be occupied or used in whole or part until a certificate of occupancy shall have been issued by the Director of Building and Planning certifying that such building conforms to the provisions of this chapter.

[Amended 1-19-2002 by Ord. No. 3631]

- B. Buildings hereafter altered. No building hereafter so enlarged or so altered as to change its classification and no building hereafter altered for which a certificate of occupancy has not been heretofore issued shall be occupied or used in whole or in part until a certificate of occupancy approved by the Director of Building and Planning shall have been issued.

[Amended 1-19-2002 by Ord. No. 3631]

- C. Existing buildings. Nothing in this chapter shall prevent the continuance of the lawful use and occupancy of a lawful existing building, except as may be necessary for the safety of life or property. Upon written request from the owner, there shall be issued a certificate of occupancy for an existing building certifying, after verification by inspection of the Director of Building and Planning, the occupancy or use of such building. Whenever a property has been inspected by the Codes Administrator, a certificate of occupancy shall be issued, provided the building and/or use comply with the provisions of this chapter.

[Amended 1-19-2002 by Ord. No. 3631]

- D.** Change of occupancy. No change of occupancy or use shall be made in a building hereafter erected or altered that is not consistent with the last issued certificate of occupancy for such building unless a permit is secured. In case of an existing building, no change of occupancy or use that would bring it under some special provision of this chapter shall be made unless the Director of Building and Planning finds, upon inspection, that such building conforms substantially to the provisions of law with respect to the proposed new occupancy and use and a certificate of occupancy is issued therefor.

[Amended 1-19-2002 by Ord. No. 3631]

- E.** Applications. Applications for certificates of occupancy shall be submitted in such form as the Director of Building and Planning may prescribe, shall contain such information as may be required by him and shall be verified by affidavit. Application for a certificate of occupancy shall be made at the time that application is made for a building permit or before any physical work is done.

[Amended 1-19-2002 by Ord. No. 3631]

- F.** Contents of certificate. In addition to the certification as to compliance with the provisions of this chapter, the certificate of occupancy shall state the purposes for which the building may be used and any special stipulations of the permit. A certificate of occupancy issued to the owner or agent of any building hereafter erected or altered in accordance with any variance or special exception granted by the Zoning Hearing Board shall include a description of such variance or special exception.

- G.** Issuance and filing. A certificate of occupancy shall be issued within 10 days after application if the building at the time of application shall be entitled thereto. A record of all certificates shall be kept in the Township Building.

[Amended 11-18-1992 by Ord. No. 3302]

- [1] *Editor's Note: For provisions pertaining to the issuance of certificates of occupancy under the Township Building Code, see Ch. 62, Building Construction.*

## § 155-141. **Antennas.**

[Added 11-20-1985 by Ord. No. 2092; amended 10-15-1986 by Ord. No. 3022; 6-19-1991 by Ord. No. 3244]

- A.** In R AA, R A, R 1, R 2, R 3, R 4, R 5, R 6, R 6A and R 7 Residence Districts, antennas are permitted as accessory uses only and are subject to the following regulations:

- (1) No more than one conventional and one satellite dish antenna is permitted per lot. Any person, partnership, corporation or association maintaining an antenna on a lot occupied by multiple tenants, condominium and/or homeowners, whether residential, commercial or industrial, shall make this antenna available to serve all such occupants.
- (2) Ground-mounted antennas are permitted only on that side of the principal building where the rear yard is located. If usable satellite signals cannot be obtained from such rear yard, the antenna may be located on the side yard, provided that a special accessory use permit is obtained prior to such installation. Antennas must be set back from side and rear property lines a minimum distance equal to the height of the antenna.
- (3) Antennas may not exceed 13 feet in height.
- (4) Roof-mounted antennas are permitted by right, subject to the provisions set forth under Subsection **D** below.
- (5) Use of the antenna is limited to the lot on which it is located.
- (6) Where a ground-mounted antenna is in full view of adjoining properties, plantings, designed to ameliorate the visual impact or to provide a partial visual screen, as approved by the Shade Tree Division of the Public Works Department, will be required.

(7)

In R 3, R 4, R 5, R 6, R 6A and R 7 Residence Districts, the provisions of Subsection **A(1), (2), (3)** and **(5)** above shall not apply to franchisees using antennas to provide cable television service within the Township, except that such antennas may not exceed 23 feet in height.

[Added 2-17-1993 by Ord. No. 3310]

- B.** In the CL, C 1, C 2 and M Districts, antennas are permitted as accessory uses only and are subject to the following regulations:

[Amended 10-15-2014 by Ord. No. 4032]

- (1) Roof-mounted antennas are permitted by right subject to the provisions set forth under Subsection **D** below.
- (2) Ground-mounted antennas are permitted only on that side of the principal building where the rear yard is located, but not within any required yard area for the principal building. Antennas must be set back from side and rear property lines a minimum distance equal to the height of the antenna.
- (3) Antennas may not exceed 13 feet in height.
- (4) Where a ground-mounted antenna is in full view of adjoining properties, plantings designed to ameliorate the visual impact or to provide a partial visual screen, as approved by the Shade Tree Division of the Public Works Department, will be required.
- (5) The provisions of Subsection **B(2)** and **(3)** above shall not apply to franchisees using antennas to provide cable television service within the Township, except that such antennas may not exceed 23 feet in height.

[Added 2-17-1993 by Ord. No. 3310]

- C.** A Lower Merion Township building permit must be obtained before an antenna is installed. The adequacy of the proposed anchoring must be certified by a registered professional engineer.

- D.** In the event that usable signals cannot be received by locating the antenna on the rear or side yard of the property, such antenna may be roof-mounted, provided that a special accessory use permit is obtained prior to such installation and provided that it is screened from view from public thoroughfares. Such permit shall be issued notwithstanding the view from a public thoroughfare upon a showing by the applicant that usable satellite signals are not receivable from any location on the property other than the location selected by the applicant. No fee shall be assessed and no public hearing shall be required for the issuance of such permit.

- E.** Legislative intent.

- (1) Antennas provide users with a wide variety of video programming which may be unavailable from other sources. The Board of Commissioners recognizes this valuable means of telecommunications.
- (2) The Board of Commissioners also recognizes its duty to protect the health and welfare of the community through the police powers, specifically the zoning power, delegated to the Board of Commissioners by the commonwealth. The Board of Commissioners desires to provide for the use and enjoyment of antennas by Township residents while protecting the safety and health of the residents and preserving the character of the community property values and general appearance of the Township.
- (3) The Board of Commissioners finds that:
  - (a) Antennas are a valid accessory use in residential districts. As accessory structures are limited to rear yards by other sections of this chapter, antennas should also be placed in rear yards. This requirement will enhance the appearance of the residential neighborhoods of the Township and preserve property values.
  - (b) Limitations on the number of antennas on residential lots will provide individual property owners with access to antenna technology while minimizing the impact on the appearance of the neighborhood.
  - (c)

Limitation on the size of the antenna to 13 feet will enable property owners to use antennas large enough to assure adequate video reception while prohibiting antennas which are unnecessarily large and unsightly.

- (d) Roof-mounted antennas may pose a health and safety danger to the community. Improperly installed antennas may become unstable and fall, causing personal injury and property damage. Even properly installed antennas may become damaged by high winds or other adverse weather conditions and present a health and safety hazard. Installation of roof-mounted antennas will be limited to those buildings in which the property owners have, in general, taken precautions to protect residents and passersby from injury due to falling objects. In addition, this limitation will also enhance community appearance and preserve property values.

### § 155-141.1. **Wireless communication facilities.**

[Added 11-15-1995 by Ord. No. 3406; amended 5-20-1998 by Ord. No. 3489]

In recognition of the quasi-public nature of wireless communication systems, the following special regulations shall apply:

**A. Purposes.** The purposes of this section shall be as follows:

- (1) To accommodate the need for wireless communication facilities while regulating their location and number in the Township.
- (2) To minimize adverse visual effects of wireless communication facilities and support structures through proper design, siting and vegetative screening.
- (3) To avoid potential damage to adjacent properties from support structure failure and falling ice, through engineering and proper siting of support structures.
- (4) To encourage the joint use of any new support structures to reduce the number of such structures needed in the future.

**B. Definitions.** For the purposes of this section, the definitions in § 140-2 shall apply.

**C. Use regulations.**

- (1) A wireless communications facility with support structure shall be a permitted use of land in all commercial zoning districts and the M Manufacturing and Industrial Districts, except for land otherwise used for a day-care, preschool, primary and secondary school facility. In residence zoning districts, a wireless communication facility with support structure is permitted only if the property is owned by the Township of Lower Merion and used for municipal purposes or if the property is a cemetery use conducted on a lot of at least 10 acres in size.

[Amended 9-15-1999 by Ord. No. 3539; 12-20-2000 by Ord. No. 3594]

- (2) An attached wireless communication facility is a permitted use in all zoning districts.
- (3) If the application is for a wireless communication facility on a new support structure, then a special exception from the Zoning Hearing Board will be required.
- (4) All other uses ancillary to a wireless communication facility (including a business office, maintenance depot, vehicle storage, etc.) are prohibited from the wireless communication facility site unless otherwise permitted in the zoning district in which the wireless communication facility site is located.
- (5) No wireless communication facility with support structure shall be permitted on a lot which is nonconforming as to size, and no more than one such support structure shall be permitted on any lot.

[Added 12-16-1998 by Ord. No. 3508]

- (6)

No more than one wireless communication facility visible from a lot line of the property on which it is located shall be permitted on any lot unless multiple facilities are collocated on a single support structure.

[Added 12-16-1998 by Ord. No. 3508]

**D. General standards applicable to all wireless communication facilities.**

**(1) Height restrictions.**

**(a) Attached wireless communication facilities.**

- [1]** Antenna array on any attachment structure must be more than 35 feet above ground on all sides of the structure and are prohibited on all structures 35 feet or less in height.
- [2]** The height from grade of the antenna array may not exceed the height from grade of the attachment structure by more than 20 feet.
- [3]** If a wireless communication facility or its appurtenances extend above the primary roof of any attachment structure, they must be set back one foot from the edge of the primary roof for each one foot in height above the primary roof which the wireless communication facility extend unless the facility is appropriately screened from view through the use of panels, walls or other screening techniques approved by the Township. Setback requirements shall not apply to a wireless communication facility which is mounted on the exterior of an attachment structure below the primary roof, and which does not protrude more than 18 inches from the side of such attachment structure.

**(b) Wireless communication facilities with support structure.**

- [1]** The maximum height of any wireless communication facility shall be 200 feet.
- [2]** The applicant shall demonstrate that the wireless communication facility with support structure is the minimum height required to function satisfactorily within the applicant's grid. No such facility that is taller than this minimum height shall be approved, except to facilitate collocation.
- [3]** The measurement of height for the purpose of determining compliance with these requirements shall be from grade and shall include the support structure itself, the base pad and any facilities attached thereto.

**(2) Setbacks from base of support structure.** If a new support structure is constructed (as opposed to mounting the wireless communication facility on an existing support structure), the minimum distances between the base of the support structure or any guy-wire anchors and any property line or ROW line shall be the largest of the following:

- (a)** In residence zoning districts, all wireless communication facilities with support structure shall be set back a minimum distance equal to the height of the wireless communication facility with support structure. If the support structure is self-collapsing, the setback may be reduced to 50 feet, plus one foot for each additional foot in height above 100 feet, provided that it is placed within the setback envelope at a location which the Director of Building and Planning determines will make it least visible from a property or ROW line.

[Amended 1-19-2002 by Ord. No. 3631]

- (b)** In Commercial and Manufacturing Zoning Districts, all wireless communication facilities with support structure shall be set back a minimum distance of 25 feet, plus one foot for each additional foot in height above 100 feet. In no case shall the set back from a Residential Zoning District be less than that required if the property were zoned residential.

- (c)** These setback provisions shall not apply to Township property.

- (d) Setback requirements may be modified by conditional use if the Board of Commissioners finds that placement of a wireless communication facility with support structure in a particular location will reduce its visual impact, for example, if adjacent to trees or a structure which may provide a visual screen.
- (3) Support structure safety. The applicant shall demonstrate that the proposed wireless communication facility and support structure are safe and the surrounding areas will not be negatively affected by support structure failure, falling ice or other debris or radio frequency interference. All support structures shall be fitted with anti-climbing devices, as approved by the manufacturers.
- (4) Stealth design. Wireless communication facilities shall be of stealth design, as required by the Township, and must comply with the following standards relating to aesthetics, placement, materials and colors:
  - (a) Attached wireless communication facilities shall be designed and maintained so as to blend in with the existing structure to the extent feasible, including placement in a location which is consistent with proper functioning of the wireless communication facility and use of compatible or neutral colors.
  - (b) Attached wireless communication facilities shall be screened in a reasonable and achievable manner.
  - (c) Wireless communication facilities with support structure shall be designed so as to blend in with the existing surroundings feasibly, including the use of compatible colors and disguised structures.
  - (d) Equipment facilities shall, to the extent practicable, use materials, colors and textures that blend in with the natural setting and built environment.
- E. Special standards applicable to all wireless communication facilities other than micro facilities.
  - (1) Fencing. A fence shall be required around the wireless communication facility with support structure and other equipment unless the wireless communication facility is mounted on an attachment structure. The fence shall be a maximum of eight feet in height and shall conform to the provisions of § 155-130.
  - (2) Landscaping. The applicant shall submit a planting plan with its application, preserving existing vegetation on and around the site to the greatest extent possible. The Township will utilize the guidelines of the Natural Features Conservation Code, Chapter 101, prior to granting approval.
  - (3) In order to reduce the number of wireless communication facilities with support structure in the community in the future, the proposed support structure shall be required to accommodate other users, including other wireless communication service providers and police, fire and ambulance companies.
  - (4) Support structures shall meet all Federal Aviation Administration (FAA) regulations. No support structure may be artificially lighted except when required by the FAA.
  - (5) Variance. If a variance is requested from the Zoning Hearing Board from any of the requirements of this section, in addition to the normal application requirements, the application for variance shall include the following:
    - (a) A description of how the applicants' construction plan addresses any adverse impact which might occur as a result of approving the variance.
    - (b) A description of off-site or on-site factors which mitigate any adverse impacts which might occur should the variance be granted.
    - (c) A technical study which documents and supports the criteria submitted by the applicant upon which the request for variance is based. Such technical study shall be certified by an engineer and shall document the existence of the facts related to the proposed variance and its relationship to the surrounding ROW and properties.
    - (d)

For a variance to the setback requirement, the application shall identify all property where the proposed tower could be located, attempts by the applicant to contact and negotiate an agreement for location or collocation and the result of such attempts.

- F. Standards of special exception approval. If an applicant requires a special exception, it must comply with the provisions of § ~~155-114~~ as well as the following:
- (1) Using technological evidence, demonstrate that the wireless communications facility must go where it is proposed in order to meet the community's need for wireless communication services not presently being met by any wireless communications provider.  
[Amended 12-20-2000 by Ord. No. 3594]
  - (2) Demonstrate that a good faith effort was made to mount antenna array on an existing structure. The applicant shall submit proof that it contacted the owners of tall structures within a one-fourth-mile radius of the site proposed, asked for permission to install the facility on those structures, offered market compensation to such owners and was denied. This would include smokestacks, water towers, tall buildings, support structures of other cellular communications companies, other communications towers (fire, police, etc.), and other tall, feasible and structurally sound structures.
  - (3) Provide evidence satisfactory to the Zoning Hearing Board that the stealth design of the wireless communication facility effectively minimizes its visual impact and blends with its surroundings.
  - (4) A plan shall be required for all wireless communication facilities showing the antenna array, support structure, building, fencing, buffering, access and such other information as the Township may require to illustrate the relationship between the proposed facility and adjacent structures and property lines.
  - (5) Comply with the general standards of approval for all wireless communication facilities as set forth herein.
  - (6) The owner of any new support structure shall be required to accommodate other users on the support structure, provided that the structure is capable of supporting the additional facilities, the prospective user offers fair market rent and the operation of the additional facilities will not interfere with other communications facilities.
- G. Nonconforming wireless communications facilities. Wireless communication facilities in existence on the date of the adoption of this subsection, which do not comply with the requirements of this section, shall be subject to the provision of § ~~140-10~~.

### **§ 155-141. Conditional use application procedure and standards.**

[Added 2-16-1988 by Ord. No. 3077]

- A. All applications for conditional uses shall be processed as follows:
- (1) The Director of Planning shall receive such applications on forms which the Director shall provide and with such fee as may be set by the Board of Commissioners.
  - (2) The Director of Planning shall forward the application to the Planning Commission for its review and recommendation.
  - (3) The Planning Commission shall promptly forward its recommendations to the Director of Planning for distribution to the Building and Planning Committee of the Board of Commissioners. Such recommendation may come at any time prior to the close of the public hearing.  
[Amended 7-21-2010 by Ord. No. 3921]
  - (4) The Building and Planning Committee or the entire Board shall hold a public hearing on the application. Upon completion of the public hearing, the Building and Planning Committee shall consider the recommendation of the Planning Commission and shall promptly recommend a final decision to the Board of Commissioners.

[Amended 7-21-2010 by Ord. No. 3921]

- (5) The Board of Commissioners may appoint one of its members or an independent attorney to be a hearing officer to conduct the public hearing and to recommend findings of fact and a decision to the Building and Planning Committee. If the parties and the Board of Commissioners agree prior to the presentation of any testimony, the decision of the hearing officer shall be final. Otherwise, the Building and Planning Committee, after consideration of the Planning Commission's recommendation, shall promptly recommend a final decision to the Board of Commissioners.

[Amended 7-21-2010 by Ord. No. 3921]

- (6) The Board of Commissioners shall render a decision on the application which shall be in writing, shall contain findings and reasons for the adjudication and which shall be mailed to the applicant or his agent within 15 days thereafter.
- (7) If the conditional use application is a part of a subdivision or land development application, the applications may be considered simultaneously, and the procedure to be followed for consideration of the conditional use application shall be that provided for in Chapter 135, Subdivision and Land Development.

- B. The Board of Commissioners may grant approval of a listed conditional use under any district, provided that the following standards and criteria are complied with by the applicant for the conditional use. The burden of proving compliance with such standards and criteria shall be on the applicant.

- (1) The applicant shall establish by credible evidence that the use or other subject of consideration for approval complies with the community development objectives as stated in Article I of this chapter and the declaration of legislative intent that may appear at the beginning of the applicable district under which approval is sought.
- (2) The applicant shall establish by credible evidence compliance with conditions for the grant of conditional uses enumerated in that section which gives the applicant the right to seek a conditional use.
- (3) The applicant shall establish by credible evidence that the proposed use or other subject of consideration for approval shall preserve the character of the neighborhood.
- (4) The applicant shall establish by credible evidence that the proposed use or other subject of consideration for approval shall be properly serviced by all existing public service systems. The peak traffic generated by the subject of the approval shall be accommodated in a safe and efficient manner or improvements made in order to effect the same.
- (5) The applicant shall establish by credible evidence that the proposed use or other subject of consideration for approval is properly designed with regard to internal circulation, parking, buffering and all other elements of proper land planning.
- (6) The applicant shall provide sufficient plans, studies or other data to demonstrate compliance with the regulations for the permitted use or other such regulations, as may be the subject of consideration for a conditional use approval.
- (7) The Board of Commissioners shall impose such conditions as are advisable to ensure compliance with the purpose and intent of this chapter, which may include, without limitation, planting and buffers, harmonious design of buildings, protection of watercourses, environmental amenities and the elimination of noxious, offensive or hazardous elements.

- C. Standards of proof.

[Added 3-15-2000 by Ord. No. 3560]

- (1) An applicant for a conditional use shall have the burden of establishing both:
  - (a) That his application falls within the provision of this chapter which accords to the applicant the right to seek a conditional use; and

- (b) That allowance of the conditional use will not be contrary to the public interest.
- (2) In determining whether the allowance of a conditional use is contrary to the public interest, the Board shall consider whether the application, if granted, will:
  - (a) Adversely affect the public health, safety and welfare due to changes in traffic conditions, drainage, air quality, noise levels, natural features of the land, neighborhood property values and neighborhood aesthetic characteristics.
  - (b) Be in accordance with the Lower Merion Township Comprehensive Plan.
  - (c) Provide the required parking required under Article **XX** or as otherwise provided for in other applicable provisions of this chapter.
  - (d) Adversely affect the logical, efficient and economical extension or provision of public services and facilities such as public water, sewers, refuse collection, police and fire protection and public schools.
  - (e) Otherwise adversely affect the public health, safety, morals or welfare.
- (3) In all cases, the applicant's burden of proof shall include the burden of persuading the Board by credible evidence that the applicant has satisfied the criteria set forth in Subsection **C(1)(a)** of this subsection. In any case where the Board requests that the applicant produce evidence relating to the criteria set forth in Subsection **C(2)** of this subsection or where any other party opposing the application shall claim that an allowance of the application will have any of the effects listed in Subsection **C(2)** of this subsection, the applicant's burden of proof shall include the burden of persuading the Board by credible evidence that allowance of a conditional use will not be contrary to the public interest with respect to the criteria so placed in issue.

### **§ 155-141. Separation requirements.**

[Added 5-17-1989 by Ord. No. 3154]

- A. Legislative intent. Certain uses in the various zoning districts, while compatible with other lawful uses, can be detrimental to the quiet use and enjoyment by others of their property if concentrated in the same neighborhood. The Board of Commissioners has determined that undue concentration can be avoided by mandating a minimum distance of separation between these uses. Thus the essential nature of the various districts can be maintained while providing a broad level of inclusion for the variety of uses that enrich our community.
- B. No permitted use allowed conditioned upon compliance with this subsection shall be located on a lot, any portion of which is closer to another lot lawfully used for a permitted use allowed conditioned upon compliance with this subsection than a distance determined by multiplying by 20 times the required street frontage for a single-family dwelling in the district in which the use is located. This section shall be construed to prevent an existing lawful use from being rendered unlawful by the application hereof.

### **§ 155-141. Historic districts.**

[Added 9-16-1992 by Ord. No. 3298]

The protrusion of a required yard in an historic district may be permitted by the Board of Commissioners as a conditional use if the purpose of the addition is to restore the building to its previous historic configuration, provided that the addition is approved by the Board of Historical Architectural Review.

### **§ 155-141. Impervious surface expansion.**

[Added 11-18-1992 by Ord. No. 3302; amended 10-20-1993 by Ord. No. 3337]

- A.

Legislative intent. In the interest of public health, safety and welfare, the provisions of this section and the impervious surface regulations, in general, are intended:

- (1) To minimize stormwater runoff, street flooding and stream bank and soil erosion caused by the conversion of undeveloped, porous surfaces to impermeable ground cover.
  - (2) To maximize groundwater recharge and maintain the base flow of streams and watercourses, thereby ensuring both the quantity and quality of groundwaters and surface waters.
  - (3) To protect the Township from development which may cause a subsequent expenditure for public works and disaster relief affecting the well-being of the Township and its residents.
  - (4) To protect the residents from property damage and personal injury due to runoff, flooding and erosion attributable to nearby development.
  - (5) To restrict erosion and sedimentation impacts and the alteration of natural drainage patterns, aggravating flooding both in the immediate area and in downstream areas.
  - (6) To relate the intensity of development to the ability of the natural and man-made environment to support it.
  - (7) To provide relief to those lots in existence prior to October 17, 1990.
- B.** A lot legally in existence on October 17, 1990, which was then legally covered with an impervious surface within 1% of the maximum impervious cover permitted by this chapter, or which then became nonconforming to such impervious cover provisions, may expand the impervious cover on such lot by a maximum of 1% of the lot area, unless the expansion qualifies under Subsection **C** below. The benefits of this expansion shall not be available with respect to any lot created or modified after October 17, 1990.
- C.** The impervious surface on any lot in a residential zoning district used exclusively as a dwelling may exceed the maximum permitted in the underlying zoning district by an additional 5% of the lot area or 1,500 square feet, whichever is less, provided all of the following requirements have been met:
- [Amended 1-19-2002 by Ord. No. 3631; 11-16-2005 by Ord. No. 3758]
- (1) The additional five-percent impervious surface shall not be permitted on any lot where a new principal building has been constructed within the prior 10 years, or where, during that same period, an addition has been added to the principal building following the removal of more than 75% of its building area.  
[Amended 3-16-2016 by Ord. No. 4080]
  - (2) One hundred percent of the direct volume of stormwater runoff from the additional impervious surface is recharged for a one-hundred-year storm event.
  - (3) The design and location of the recharge system must be approved by the Township Engineer. The Township Engineer may require that a percolation test be submitted with the permit application showing rates sufficient to empty the system within 24 hours. Construction may not disturb steep slopes, woodlands or any area within the dripline of trees greater than 15 inches dbh. Disturbance of trees between six inches and 15 inches diameter at breast height is prohibited if an alternative location for the recharge system is feasible. Every tree between six inches and 15 inches diameter at breast height that is removed must be replaced on the lot with one three-inch-minimum-caliper tree selected from the list of recommended trees set forth in § **A177-1**, or comparable tree approved by the Township Arborist. If the lot cannot accommodate all of the additional trees, the excess trees shall be planted on publicly owned land after receiving approval from the public entity having ownership.
  - (4) If site conditions prohibit on-site recharge, the expansion shall not be permitted.
  - (5) A covenant running with the land shall be recorded requiring the property owner to maintain the recharge basin at all times so that it will operate as designed.
  - (6)

The property owner shall provide to the Township a certification from a qualified engineer every two years that the stormwater management system required by this section has been inspected and is functioning as designed.

- D. Public schools, In expanding a building used for public school purposes, the maximum permitted impervious surface in the underlying zoning district applicable to the lot on which the building is located may be exceeded by up to 5% on lots less than 40 acres, and by up to 5%, or up to 32% of the area of such lot, whichever is greater, on lots 40 acres and over. However, the additional volume of stormwater runoff generated during a one-hundred-year storm event by any expansion in excess of the maximum otherwise permitted must be recycled to the extent practicable and otherwise fully recharged, subject to the judgment and approval of the Township Engineer.

[Added 9-18-2002 by Ord. No. 3654; amended 8-3-2005 by Ord. No. 3751]

- E. If the total area of wood decks exceeding 200 square feet, when added to the existing impervious surface on a property, exceeds the impervious surface limits permitted in the underlying zoning district without regard to the expansion permitted by § 155-141.5C above, a stormwater management system meeting the requirements of § 155-141.5C shall be installed.

[Added 9-25-2006 by Ord. No. 3790]

### § 155-141. **Common driveways; impervious surface allocation.**

[Added 9-16-1998 by Ord. No. 3496]

For the purpose of determining the amount of impervious surface on a lot served by a common driveway, the total impervious surface of that common driveway shall be allocated evenly among the lots served, unless it is otherwise allocated in a recorded covenant approved by the Township and binding on the properties affected, in which case such recorded allocation shall control.

### § 155-141. **Vehicle lift.**

[Added 5-16-2007 by Ord. No. 3815]

A vehicle lift shall only be permitted as an accessory use on property otherwise lawfully used as a motor vehicle sales agency and solely for the purpose of vehicle display. Vehicle lifts shall only be operated by an employee of the sales agency displaying the motor vehicle. Vehicle lifts shall also be subject to the following regulations:

- A. The minimum setback from any street line shall be 100 feet.
- B. The minimum setback from any property line abutting a residentially zoned property used for residential purposes shall be 20 feet.
- C. A row of trees designed to screen the lift and any supported vehicle shall be installed between the lift and the street.
- D. A row of trees designed to screen the lift and any supported vehicle from adjacent properties shall be installed between the lift and adjacent properties.
- E. The lift may not be raised to a height in excess of 10 feet above grade.
- F. The storage space provided on or under a vehicle lift shall not be counted as a parking space required under this chapter.
- G. The area underneath a vehicle lift shall be considered building area for purposes of compliance with building area limitations under this chapter.